

5314  
CW

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FILED

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RICHARD W. WIEKING  
CLERK U.S. DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

107

5314 (PR)

11 SCOTT W. DAVIS, an individual

12 Plaintiff.

13 vs.

14 DRUG COURT TREATMENT CENTER,

15 Individuals Debbie Pope, Counselors  
16 Bill, Debbie, and Tommy, et. al.

17 And DOES 1-10 inclusive

18 Defendants.

COMPLAINT UNDER CIVIL RIGHTS ACT §1983

JURY TRIAL DEMAND; F.R. Civ. P 38(b)

1) VIOLATION OF ESTABLISHMENT CLAUSE  
PURSUANT TO TITLE 42 U.S.C. §1983

2) DENIAL OF PROTECTED RIGHTS UNDER  
CALIFORNIA LAW

3) VIOLATION OF FREE EXERCISE CLAUSE

Amount demanded: \$1,300,000

STATEMENT OF CASE

21 PLAINTIFF contends the mere fact of his brief pre-sentence attendance designed  
22 to demonstrate his commitment to rehabilitation, did not amount to a consent to the  
23 aspect of the sentence that required participation in religious exercises.  
24 Plaintiff alleges defendants did not offer an alternative to NA/AA as in meaning ,  
25 secular meeting. Plaintiff believes any waiver of rights is not valid due to DAVIS  
26 being in Drug Court illegally per PCS1210.-1211 Plaintiff is also claiming these issues  
27 above contributed to his incarceration on the above mentioned causes of action.  
28 Conviction is not being disputed here. Defendants forced violation of probation.

STATEMENT OF CASE (cont.)

This instant action arises from the unlawful and premeditated constitutional violations perpetuated by the Drug Court Treatment Center (D.C.T.C.) Sonoma County Probation Department (S.C.P.D.), and Administration and County Alcohol & Drug Program (A.C.A. & D.P.). Plaintiff was coerced and forced to attend NA/AA meetings under threat of consequences of getting kicked out of Drug Court and sent to prison for failure to go to at least five NA/AA meetings a week. Plaintiff was still threatened after notifying Drug Court Counselors and Drug Court Judge that participation in those meetings were very uncomfortable because it was forcing him to participation in actions contrary to his religious beliefs. The named defendants above actions amounted to establishment of religion prohibited by First Amendment and blocking his own religious practices. Plaintiff now brings this action in an effort to seek relief from prejudicial persecutions carried out under color of law.

PARTIES

## 1.

Plaintiff SCOTT WILLIAM DAVIS (SCOTT W. DAVIS) is an adult male and a resident of the County of Sonoma, State of California.

## 2.

Defendants SONOMA COUNTY PROBATION DEPARTMENT, D.C.T.C., Staff of D.C.T.C., and A.C.A. & D.P. They are within the boundaries of the Northern District of California, as are the individual defendants DEBBIE POPE, and Counselors 'Bill', 'Debbie', and 'Tommy'.

## 3.

Plaintiff is ignorant of the true names and capacities of defendants' sued herein and therefore sues these Defendants by such Jane Does and John

Does. Plaintiff will amend this complaint to allege their true names and capacities when ascertained. Plaintiff is informed and believes and thereon alleges that each of these fictitiously named Defendants is responsible in some manner for the occurrences herein alleged, and Plaintiff injuries as herein alleged were proximately caused by the aforementioned Defendants. The Plaintiff is informed and believes and thereon alleges that each of the Defendants' herein was, at all times relevant to this action, the agent, the employee, representing partner, supervisor, managing agent, or joint venturer of the remaining Defendants and was in action within the scope of that relationship. Plaintiff is further informed and believes and thereon alleges that each of the Defendants herein gave consent to, ratified, and authorized the acts alleged herein to each of the remaining Defendants. Defendants are sued both in their own right and on the basis of respondeat superior.

#### JURISDICTION AND VENUE

4.

Jurisdiction of this action is conferred upon this court by 42 U.S.C. §1983, 42 USC §1985(3) which gives the right to a cause of action for conspiracy which deprives a citizen of the United States of any right or privilege; the First, Fourth, Fifth, Seventh, Eighth, Ninth, and Fourteenth Amendments to the Constitution of the United States. The court is requested to assume control of the collateral state claims under the doctrine of pendent jurisdiction as the claims arising thereunder involve the same actions and set of circumstances. See e.g. Uhl v. Ness City, Kansas, 406 F.Supp. 1016 (D.C. Kansas 1975), affirmed 590 F.2d 839. 28 U.S.C. 1331; 1338; The federal question statutes. This Court further has supplemental jurisdiction over Plaintiff's state law claims under 28 U.S.C. 1367(a) and Savage v. Glendale Union High School Dist. No. 205 (9th Cir.) 2003.

5.

Venue over Defendants is proper as Defendants reside in the Northern

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1 District of California, and at times relevant to this action, Plaintiff has  
2 resided in the Northern District of California. Thus venue is proper under  
3 28 U.S.C. §1391. This civil action is requested to commence in San Fran-  
4 cisco District Court via the intradistrict assignment.

5 FACTS

6 6.

7 Plaintiff was sentenced by Robert S. Boyd, Dept. 15, in Sonoma County  
8 Superior Court, State of California, on 8-25-05 to Drug Court after a vio-  
9 lation of probation.

10 7.

11 Plaintiff was in Drug Court until 11-06-06 when he was dropped for  
12 a supposed lack of interest in program.

13 8.

14 Plaintiff would state this is partially right, he did have a interest  
15 in not continuing because he was subjected and coerced to attend NA/AA  
16 meetings while at Drug Court. Sometime between December 2005 and February  
17 2006, plaintiff let his counselor 'Bill' know and other counselor 'Debbie'  
18 (while she filled in for plaintiff's counselor) that he was offended  
19 by the way NA/AA was operating in the Sonoma County Chapter. That it went  
20 against his religious beliefs (Baptist) and was offensive in many ways.  
21 When plaintiff tells her and staff, he is told to continue meetings or  
22 be kicked out of program and be put in prison. Plaintiff complies reluc-  
23 tantly because of threats. Plaintiff starts to get bad reports now.

24 Plaintiff subsequently goes higher in rank in Drug Court to voice his  
25 concerns and beliefs to try to come to a solution to problems with NA/AA  
26 clashing with personal religious beliefs.

27 9.

28 Plaintiff talks to counselor "Tommy" who is supervisor of 'Bill' and

1 "Debbie". Plaintiff tried to explain how offensive NA/AA is here in Sonoma County.  
2 Plaintiff describes how counselors ridiculed him over religious beliefs opposed to  
3 NA/AA. Plaintiff tells 'Tommy' of how they accuse him of not being serious. DAVIS,  
4 the plaintiff here, tells 'Tommy' of wanting to focus on church instead, that this  
5 is a type of God he does not follow. Also the Big Book and its concept of working  
6 steps to find God to help you with addiction is uncomfortable. One of the most  
7 offensive things is working with a sponsor to tell you how to work the steps and  
8 interact with God, which is foreign and offensive also. DAVIS explains in this  
9 meeting and others how NA/AA with references to God are offensive and opposite of  
10 his church teachings. The closing with the Lord's Prayer with people in NA/AA was  
11 wrong in plaintiff's religious beliefs, because some have no belief in Jesus.

12 10.

13 Plaintiff was met with some hostility as before and told, "You didn't come here  
14 to go to church, go to prison if you don't like it." He again, complies reluctant-  
15 ly because of threats. Bad reports continue on plaintiff.

16 11.

17 Judge Boyd becomes aware of these issues at regular visits to Drug Court Dept.  
18 15. Judge Boyd asks plaintiff what his problem is concerning going to meeting.(NA/  
19 AA) Plaintiff tells Judge that it clashes with his religious beliefs. Judge Boyd  
20 replies, "Do what you're told", in a stern tone and excuses plaintiff from court.  
21 (Plaintiff had updates every two weeks)

22 12.

23 Again, plaintiff is receiving a lot of flack accusing him of not being serious  
24 about recovery. Plaintiff is then directed to go to **more hard core meetings such as**  
25 **"Step Study Meetings"** and to find a sponsor and work **"first three steps"** or he can-  
26 not graduate. These actions put a lot of pressure on plaintiff because 'Step Study'  
27 meetings are more spiritually intense than regular meetings.

28 //

13.

On March 9th, 2006, the plaintiff is so upset and stressed out over these meetings that he is admitted for an overnight stay a mental health facility (Oakcrest). Plaintiff gets a little counseling and proceeds back to same situation dealing with Drug Court staff still resenting the fact that plaintiff does not embrace their beliefs in NA/AA.

14.

Some months later "Davis" is told to do 90 days and 90 meetings, at this point this is effecting plaintiff's attendance at church. Plaintiff was attending morning services at Baptist Church in Santa Rosa and six p.m. in the evening. Plaintiff now cannot have a day of rest to worship, a Baptist rule and tradition. Plaintiff believes now that free exercise of religion is violated at this point, but was confused as how to deal with it at that time. (Plaintiff has no driver's license)

15.

At this point, Davis tries to address everything with D.C.T.C. Director directly. Plaintiff, Davis gets a meeting with Director Debbie Pope at her Farmers Lane Office. Plaintiff discusses all his beliefs and issues he had with counselors concerning religious beliefs. The meeting ends with Pope stating, she would talk to counselors, but insisted half the problem was with the plaintiff. Davis was reluctant at this point to disagree on the religious issues because of previous threats. Plaintiff believes that at this juncture that all remedies possible were exhausted based on the fact he had voiced his concerns from Judge on down.

Plaintiff could only talk to the Psychiatric Technician (Allison) who worked part-time at Drug Court in One-on-One Counseling Sessions that were "confidential".

//

16.

Some weeks later again Plaintiff was told to complete the first three steps of the NA/AA Program or he would not graduate. Plaintiff believes he can no longer comply with the program and is now faced with a dilemma of faking or lying to Drug Court of working these steps with his sponsor. For plaintiff to work these steps with his sponsor in the tradition of NA/AA a type of spirituality/program, in essence another man telling plaintiff how to worship God in his daily life (exactly opposite of his Baptist beliefs).

Plaintiff stalls on this because he does not want to lie or be forced to break religious beliefs. So after being in this Catch 22 so to speak, plaintiff informs Judge Boyd he does not want to continue because he does not want to lie or break church doctrine. Plaintiff had missed a test at this time also.

17.

At a certain point in time, plaintiff's counselor 'Bill' forced plaintiff to read the Big Book. This also occurred with Supervisor 'Tommy', who had the plaintiff doing daily readings out of the Big Book when 'Tommy' eventually became plaintiff's counselor.

18.

After plaintiff tells Judge Boyd he does not want to continue because of his religious beliefs conflicting with NA/AA religious doctrine, Judge Boyd takes plaintiff into custody. Plaintiff has hoped Judge Boyd and counselors would show some kind of mercy towards him because he did do over 14 months there and the fact plaintiff was forthcoming with what was going on with him in regards to meetings. Plaintiff thought he did show he was serious about recovery by sticking it out and not running or lying as others had done while he had attended Drug Court. This was not to be though.

19.

Plaintiff was dropped from Drug Court on 11-06-06 and was violated over

1 Poor performance and lack of interest. The court stated, RF. EX. "C",  
2 Plaintiff believes they carried out their promised threats.

3 20.

4 Petitioner also alleges that a substantial part of Drug Court (Drug  
5 Court Treatment Center, hereafter as D.C.T.C) classes were connected to NA/AA  
6 meetings. We had Step Study meetings and videos relating to NA/AA groups. In  
7 essence (NA was 95% of program), which was not made clear in beginning. The  
8 talks of a higher power and studies on higher power permeated D.C.T.C. peer  
9 group meetings and classes. There were usually 2 to 3 meetings like this to  
10 attend at D.C.T.C. offices on top of mandatory 5 NA/AA meetings per week.

11 21.

12 Plaintiff was also paying fees for his rehabilitation. Refer to con-  
13 tract, Exhibit 'B', page two number 8. Plaintiff was told of just attendance  
14 of NA/AA not indoctrination of all other requirements that was put on him. Before  
15 joining D.C.T.C., DAVIS, had a brief look at a list of requirements that are  
16 listed in Exhibit D. Plaintiff's quick overall view of these requirements did  
17 not make clear to him all that D.C.T.C. required. See Exhibit E. It looked on  
18 the face of it there was much more to program than just being about ninety-five  
(95%) NA/AA.

19 One of the most important events that transpired was in the beginning  
20 on 8-25-06, when Debbie Pope the Director of D.C.T.C. pre-screened DAVIS at  
21 jail, when asked by Judge if DAVIS fit criteria, her reply was yes (not until  
22 after plaintiff was forced out of D.C.T.C. because of religious intolerance,  
23 and sent to prison did DAVIS find out he was there illegally per PC §1210.1.  
24 All defendants set back and said nothing.

25 In addition, plaintiff was coerced at NA/AA meetings to contribute a  
26 donation to the operation of the meetings, part of their SEventh Tradition.  
27 This takes place at every meeting. Sometimes plaintiff gave reluctantly and  
28 other times he had to defend himself as to why not contributing to the basket



1 passed around at all the meetings. In the end Davis tried to work with  
 2 Jerry Knoles of T.A.S.C. to find a solution before sentencing on  
 3 12/ 19/ 06, (Judge, DCTC never mentioned these facts.

4 22.

5 Plaintiff is now currently at CMC-West in San Luis Obispo, California,  
 6 serving out a 3 year sentence for Petty Theft with a Prior, because of  
 7 religious intolerance that caused poor performance reports The  
 8 plaintiff sums up the whole episode as to being forced to attend NA/AA as  
 9 compared to somenone being forced to attend a Mosque, Mormom Church, or a  
 10 Jehova Witness, meeting, you work out of their different books and practice  
 11 what they practice. That is how uncomfortable that plaintiff was in this  
 12 situation. Plaintiff to be released on 1-26-2008.

13 23.

#### 14 LEGAL CLAIMS

15 The facts related above disclose a concerted and systematic effort by  
 16 the defendants to deprive the plaintiff of his constitutionally secured  
 17 rights, but not limited to, those enumerated in the succeeding  
 18 paragraphs.

19 42 USC §1983, states:

20 Every person who, under color of any statute, ordinance, regulation,  
 21 custom, or usage, of any State of Territory, subjects, or causes to be  
 22 subjected, any citizen of the United States or other person within the  
 23 jurisdiction thereof to the deprivation of any rights, privileges, or  
 24 immunities secured by the Constitution and laws, shall be liable to the  
 25 party injured in an action at law, suit in equity, or other proper  
 26 proceeding for redress.

27 42 USC §1985(3)

28 Which gives the right to a cause of action for a conspiracy which  
 29 deprives a citizen of the United States of any right or privilege; the First,  
 30 Fourth, Fifth, Seventh, Eighth, Ninth and Fourteenth Amendments to the Con-  
 31 stitution of the United States.

Equal rights under the law. 42 USC §1981

1 Conspiracy to interfere with civil rights 42USC §1985.

2 Freedom from violence or threat of violence because of protected characteristics.  
3 Cal. Civil Code §51.7.

4 Protection from interference with rights by threats, intimidation, coercion, or  
5 violence. Civ.Code §52.1.

6 **FIRST CAUSE OF ACTION**

7 Violation of First Amendment Right (Establishment Clause)

8 (42 U.S.C. §1983, et seq.)

9 Plaintiff incorporates by reference the allegation contained in paragraphs 1-23  
10 as though fully set forth herein.

11 24.

12 Defendants willfully and/or with reckless indifference violated the above enum-  
13 erated statutory and constitutional rights of the Plaintiff when they wantonly dis-  
14 criminated against the Plaintiff by conducting a clearly violative and unlawful  
15 procedure to force plaintiff to attend NA/AA religion based programs. Plaintiff  
16 relies first on Lee v. Weisman (1992) 505 U.S. 577 for the proposition that the gov-  
17 ernment may not coerce anyone to participate in religion or its exercise. This is  
18 exactly what happened to "Davis", the plaintiff, in the case at bar. As stated,  
19 plaintiff was told after complaining of NA/AA meetings being offensive and conflicting  
20 based on religious beliefs. D.C.T.C. Staff counselors, Director told plaintiff to  
21 continue or there would be consequences, so as getting kicked out and going to prison.

22 25.

23 In Warner v. Orange County Dept. of Probation (1997), 115 F.3d.1068 sending  
24 Warner to AA as a condition of probation without offering a choice of other pro-  
25 viders, plainly constituted coerced participation in a religious exercise ( a viola-  
26 tion of the Establishment Clause) the Court stated. Plaintiff contends same here.  
27 Over 14 months of voicing his concerns over NA/AA being offensive and conflicting with  
28 his religious practices. The injury to plaintiff was enormous unlike in Warner.

1 Penal Code §1210.1 is a narrowly tailored statutory scheme that requires the  
2 trial court to treat those convicted of non-violent drug possessions offenses "as a  
3 separate class subject only to the special probation rules" expressly included in sec.  
4 1210.1. In re Mehdizadeh, supra, 105 Cal.App.4th at p. 1005.

5 More significantly, "an accused may waive any rights in which the public does  
6 not have an interest and if waiver of right is not against public policy [cite](Cowan  
7 v. Superior Court, supra, 14 Cal.4th at p. 371). The stated purpose of Proposition 36  
8 to halt the wasteful expenditure of hundreds of millions of dollars each year on the  
9 incarcerated and reincarceration on non-violent drug users who would be better served  
10 by community based treatment.

11 26.

12 Defendants might try to say plaintiff gave up his rights, but this is not possi-  
13 ble, due to being in Drug Court illegally under PC §1210.1, an order from Judge Boyd  
14 due to recommendations of S.C.P.D. and D.C.T.C.

15 Administration and County Alcohol and Drug Programs liability stems from Penal  
16 Code §1211, which states, "the County Drug Program administrator in each county, in  
17 consultation with representatives of the Court and County Probation Department, shall  
18 establish requirements, criteria, and fees for the successful completion of drug  
19 diversion programs which shall be approved by the County Board of Supervisors.

20 Furthermore, plaintiff, was held over twelve (12) months in D.C.T.C. in viola-  
21 tion of Penal Code §1210.1(c)(3) Drug treatment services provided by subdivision (a) as  
22 a required condition of probation **may not exceed 12 months**, provided, however, that  
23 additional aftercare services as a condition of probation may be required for up to  
24 six months. This was not the case for the plaintiff, he was kept over 14 months.  
25 This was in primary care and not aftercare. Defendants hostile actions toward DAVIS  
26 was so offensive as to drive him out of D.C.T.C. and the Drug Court. DAVIS would point  
27 out it was Debbie Pope of D.C.T.C. who pre-screened DAVIS at jail and told Judge he was  
28 eligible. If not for this gross error and Probation Department going along with this

27.

1 it very well could have turned out different for plaintiff. Remarkably, this took  
2 place over the recommendations of T.A.S.C. who DAVIS was a client of. See memo in  
3 Exhibit F. It recommends 30 day program and 6 months outpatient, not the illegal  
4 long-term program. DAVIS alleges defendants acted with malice and forethought. T.A.S.C.  
5 T.A.S.C. job for county is placement of people to programs for county. Davis also  
6 disputes judges comments in sentencing of Davis not wanting to continue  
7 in any type of rehab. Davis was working with T.A.S.K. at this time.

28.

10 Defendants violated plaintiff's rights in regards to, plaintiff was put in  
11 Drug Court illegally under law. Proposition 36 mandates probation and drug treat-  
12 ment for defendants convicted of non-violent drug possession offenses are defined  
13 as unlawful possession for personal use, or transportation for personal use of any  
14 controlled substance identified in Health and Safety Code §11054 (including heroine,  
15 LSD, cocaine base, marijuana) §11055 (including cocaine, methamphetamine, and PCP),  
16 §11056, §11057, §11058, Penal Code §1210.

29.

18 Plaintiff has no drug convictions. Plaintiff was on probation for Petty Theft  
19 with a Prior (Penal Code §666). This is not a non-violent drug charge, this is a non-  
20 violent theft charge. Defendants excluded under Penal Code §1210.1(b) excludes five  
21 categories of defendants, one of which is a felony conviction other than a non-violent  
22 drug possession offense. Defendants willfully and recklessly allowed plaintiff to be  
23 subjected to modified probation and D.C.T.C. needlessly. D.C.T.C., probation, and  
24 D.A. all allowed this injustice. In fact, in viewing of exhibit "A",  
25 between lines X10 and X13, you can see where notification of being a drug offender  
26 to police was crossed out because they knew plaintiff was not there on non-violent  
27 drug offense. This is deliberate and mean spirited and can be seen in that,

1 threatened consequences were carried out. Remarkly, even after the stress of coer-  
 2 cion drove plaintiff to an overnight stay at a mental health facility.

3 30.

4 In Warner, the Court used the three-part test of Kerr v. Farrey (7th Cir. 1996)  
 5 95 F.3d 472. First: As to the requirement of the state action, B.P.T. told Kerr  
 6 he had to participate in N/A to parole. Plaintiff has same type of action, D.C.T.C.  
 7 and Drug Court Judge still compelling plaintiff to continue regardless of religious  
 8 objections. The Second test: Does the action amount to coercion?; as in Kerr who  
 9 was told he would never parole. Plaintiff was told he would never graduate if he  
 10 did not continue with NA/AA meetings. The third test in Kerr: Was the coercion  
 11 religious, because of the NA/AA reference to God necessarily implied a spiritual  
 12 system of worship? The Court in Kerr followed Second Circuit in Warner accordingly  
 13 and Seventh Circuit Kerr (supra) to hold requiring participation NA is an Establish-  
 14 ment of Religion prohibited by the First Amendment. Which is exactly what happened  
 15 in plaintiff's case.

16 31.

17 Plaintiff being told after notifying D.C.T.C. and Drug Court Judge of uncomfor-  
 18 table conflict in religious aspect, should have honored contract he signed with them  
 19 and let him do something else instead of trying to force plaintiff into the deeper  
 20 aspects of NA/AA program by forcing Big Book (AA) and a requirement of First Three  
 21 Steps to be done with a sponsor before he could graduate. There can be no mistake  
 22 on the spiritual and religiousness of NA/AA.

23 32.

24 Step 1: We admitted that we were powerless over our addiction, that our lives  
 25 had become unmanageable. Step 2: We came to believe that a Power greater than  
 26 ourselves could restore us to sanity. Step 3: We made a decision to turn our will  
 27 and our lives over to the care of God as we understood Him.

28 A straight forward reading of the 12 Steps shows clearly that the steps are

1 based on the monotheistic idea of a single God or supreme Being. The  
2 relevant Establishment Clause precedent bars governmental endorsement and  
3 support of religion even in context in which no coercion exists. The  
4 preservation and transmission of religious beliefs and worships is com-  
5 mitted to the private sphere (Lee, 505 U.S. at 589) and government may  
6 not support religious practices even when those engage in them have  
7 freely chosen to do so

8 33.

9 Even though there was some notice of NA/AA meetings in the begin-  
10 ning, plaintiff was not ware of the degree and intensity of spirituality  
11 part in the Sonoma County chapter. Additionally plaintiff did not know  
12 D.C.T.C. was mainly NA orientated pushing of reading of Big Book and  
13 working the steps with a sponsor in NA/AA meetings. Plaintiff was just  
14 told of attendance, not all the other requirements that were added after  
15 he joined, that were offensive on a religious basis. concerning N/A.

16 34.

17 Plaintiff believes he shows that D.C.T.C. and Sonoma County  
18 Probation Department (hereafter refer to as S.C.P.D.) that they are  
19 liable for a his sentence to Drug Court because of their recommendations  
20 and special conditions of probation. See Owen v. City of Independence,  
21 445 U.S. 622, 63 L.Ed.2d. 673, 100 S.Ct. 1398 (1980), which held that  
22 municipalities do not benefit from the qualified immunity of their  
23 officers. See also Reed v. Village of Shorewood, 704 F.2d 943, 953  
24 (7th Cir. 1983)(extending the rule of Owen regarding qualified immunity  
25 to find a municipality potentially liable for its officers' executive  
26 acts, though the officers themselves were protected against absolute  
27 immunity). Scotto v. Almenas (2nd Cir. 1998) 143 F.3d 105 [Private parties  
28 conspiring with state actors under color of law maybe liable at times].

1 Plaintiff was sentenced on 8-25-05 in Department 15 by Judge Boyd in  
2 Sonoma County Superior Court under the care of D.C.T.C. A conditional  
3 sentence with special conditons "like in Warner" these special conditions  
4 were recommended Hereby, the D.C.T.C. and Probation Department (the  
5 Director, Debbie Pope, of D.C.T.C. set forth a standard form used by the  
6 Drug Court routinely provided to Judge in the Drug Court). Judge Boyd  
7 sentenced plaintiff to 18 months conditional sentence and at least nine  
8 months in participation in Drug Court (see contract in exhibit "A" and "B").  
9 In imposing these special conditions, Judge Boyd endorsed the Drug Court  
10 standard forms and practices of S.C.P.D. and D.C.T.C.

11 Plaintiff again believes defendants are liable because his injury  
12 resulted from a custom or policy of D.C.T.C. and S.C.P.D., as opposed to  
13 and isolated instance of conduct (Monell v. Department of Social Services  
14 436 U.S. 658, 690-91, 56 L.Ed.2d. 611, 98 S.Ct. 2018 (1978). See also  
15 Adickes U.S.H. Kress and Company, 398 U.S. 144, 162-67, 26 L.Ed.2d 142,  
16 90 S.Ct. 1598 (1970)(describing congressional intent in creating liability  
17 for custom or practice). Plaintiff alleges D.C.T.C. and S.C.P.D. recommen-  
18 dation that he be required to participate in NA/AA therapy unquestionably  
19 made pursuant to a general policy that was in the original contract signed  
20 by plaintiff. These meetings and conditions of participating in Drug Court  
21 are routinely submitted to Drug Court Judge.

23 The Supreme Court has made it crystal clear that principles of causa-  
24 tion borrowed from tort law are relevant to civil rights actions brought  
25 under section 1983 (Buenrostro v. Collazo, 973 F.2d. 39, 45 (1st Cir. 1992).  
26 See Malley v. Briggs, 475 U.S. 335, 344 n.7, 89 L.Ed.2d. 271, 106 S.Ct.  
27 1092 (1986); Monroe v. Pape, 365 U.S. 167, 187, 5 L.Ed.2d. 492, 81 S.Ct.  
28 473 (1961). However, tort defendants, including those sued under §1983 are

1 responsible for the natural consequences of [their] actions (Malley, 475  
 2 U.S. at 344 n. 7)(quoting Monroe, 365 U.S. at 187). As the First Circuit  
 3 has explained an actor may be held liable for "those consequences attribu-  
 4 table to reasonability foreseeable intervening forces, including acts of  
 5 third parties" Gutierrez - Rodriguez, 882 F.2d. at 561.

6 37.

7 Plaintiff alleges Drug Court Judge relies heavily on D.C.T.C. because  
 8 they do screening process for all Drug Court clients. . So there  
 9 is no doubt whether it was foreseeable that the Judge under Prop. 36  
 10 would impose their recommendation of D.C.T.C. & S.C.P.D. was for-  
 11 seeable, the natural consequences of Judge imposing conditional sentence.

12 Quoting Monroe again, the First Circuit went on to state " A negligent  
 13 defendant will not be relieved of liability by an intervening cause that  
 14 was reasonably foreseeable, even if the intervening force may have "directly"  
 15 caused the harm. An "unforeseen and abnormal" intervention, on the other  
 16 hand," breaks the chain of causality thus shielding the defendant from lia-  
 17 bility. Plaintiff believes the chain of causality was not broken (See White  
 18 v. Roper, 901 F.2d 1501, 1506 (9th Cir. 1990). Given the neutral advisory  
 19 role of D.C.T.C. and S.C.P.D. towards the court, it is entirely a natural  
 20 consequence. Again, refer to Warner for a Judge to adopt the Drug Court  
 21 Treatment Center recommendations as to therapy, courts generally rely heavily  
 22 on (especially in Prop 36 cases). See Springer, 821 F.2d at 876; Restatement  
 23 (Second) of Torts § 453 cmt. b (1965).

24 In Warner, the District Judge found that a Judge would follow such  
 25 recommendations of the Probation Department. Plaintiff asks the Court to  
 26 look at this very question. Plaintiff's injury was the  
 27 sentencing judge decision to send him to D.C.T.C., the actions of  
 28 NA/AA. The NA/AA Chapter in Sonoma County which Plaintiff was exposed



1 had a substantial religious component. D.C.T.C. and S.C.P.D. should have known this  
2 and not let plaintiff be exposed to this, especially after his objections.

3 38.

4 In Malley, supra, a Civil Rights action under §1983, against a state trooper  
5 who had procured a warrant for the plaintiff's arrest by submitting an affidavit.  
6 Plaintiff claimed the affidavit was legally insufficient. The district court had  
7 dismissed the case, believing the police officer to be absolutely immune when swearing  
8 out a warrant. The Court of Appeals reversed, resuscitating the action. The officer  
9 argued in the Supreme Court not only that he was immune, but also that he was shielded  
10 from responsibility by his entitlement to rely on the judgement of the judicial  
11 officer in finding probable cause and issuing the warrant. The Supreme Court ruled  
12 that such reliance was not justified if "a reasonably well-trained officer in [the  
13 same] position would have known that his affidavit failed to establish probable cause  
14 and that he should not have applied for the warrant.' Id. at 345. If such was the  
15 case, the officer's application for a warrant was not objectively reasonable, because  
16 it risked an unnecessary danger of unlawful arrest. "It is true," the Court observed,

17 that in an ideal system an unreasonable request for a warrant would be harmless,  
18 because no judge would approve it. But ours is not an ideal system, [\*\*12]  
19 and it is possible that magistrate, working under docket pressures, will fail  
20 to perform as a magistrate should. We find it reasonable to require the  
21 officer applying for the warrant to minimize this damage by exercising  
22 reasonable professional judgement.

23 39.

24 D.C.T.C. and S.C.P.D. should have not coerced plaintiff to attend NA/AA, they  
25 could have minimized plaintiff's damage by exercising reasonable professional judge-  
26 ment. Like in Malley with trooper defendants are liable too.

27 In Turner v. Hickman, 342 F.Supp.2d 887 (E.D. Cal. 2004), it was held,  
28 "Requiring inmates, as a condition for being granted parole, to participate in a drug  
treatment program based on the concept of a higher power to which participants had to  
submit: was an establishment of religion prohibited by the First Amendment; although  
the program's literature said that it was "not a religious program," it unequivocally

1 and wholeheartedly asserted that belief in "God" was a fundamental requirement of  
2 participation. U.S.C.A. Const.Amend.1.

3 This case is very similar to plaintiff's case. Similarly, the Seventh Circuit  
4 has ruled recently that where inmates were required to attend a substance abuse  
5 program with explicit religious content on pain of being rated a higher security risk  
6 and suffering adverse parole [\*\*23] effects, the state impermissibly coerced partici-  
7 pation in a religious program in violation of the Establishment Cause. Kerr v. Farrey  
8 , 95 F.3d 472 (7th Cir. 1996) ("In general, a coercion-based claim indisputably raises  
9 an Establishment Clause question," Id. at 479). See also O'Connor v. California, 855  
10 F.Supp. 303 (C.D. Cal. 1994)(no Establishment Clause violation where probationers were  
11 offered a choice between A.A. and a secular program).

12 40.

13 Even if the prospect here is of well-intentioned officials, the conduct of all  
14 named defedants is found to be impermissible under the Constitution. The injury  
15 suffered by plainfiff is monumental. Defendants showed a rare callousness throughout,  
16 day in and day out ridicule of him not being serious just because of religious beliefs.  
17 The plaintiff is in shock and awe that this still can happen in America today. There  
18 might be a disagreement on when the Constitutional line was crossed but plaintiff  
19 believes there is no question to line being crossed.

20 41.

## 21 SECOND CAUSE OF ACTION

### 22 DENIAL OF PROTECTED RIGHTS UNDER CALIFORNIA LAW

23  
24 Plaintiff incorporates by reference the allegaions contained in paragraphs 1-  
25 40 as though fully set forth herein.

26  
27 Defendants at D.C.T.C. similarly violated plaintiff's rights threaten him  
28 for asserting his religious rights, a violation of Free Speech under the First Amend-

ment. This was a direct violation of Cal.Civ.Code Section 51.7, 52.1, as well as section 52(b) which provides damages as remedies for denial of protected rights, concerning retaliation under color of law. The U.S. Supreme Court held in *County of Allegheny v. A.C.L.U., Greater Pittsburgh Chapter*, 492 U.S. 573, 590-91 [109 S.Ct. 3086, 3099, 106 L.Ed. 472](1989), "That the government may not promote or affiliate itself with any religious doctrine or organization, may not discriminate against persons on the basis of their religious and practices, may not delegate a governmental power to a religious institution and may not involve itself too deeply in such an institution's affairs."

Additionally defendants' counselors "'Bill' and 'Debbie', and his supervisor 'Tommy' are guilty of harrassment and interrogation and threat under color of law to the suffering of the plaintiff, which is a natural, reasonable, and proximate result of their actions. "Harrassment," is defined as a course of conduct directed at a specific person and serves no legitimate purpose. 18 U.S.C.A. 1514(c). The term is used in a variety of legal context to describe words, gestures and actions which tend to annoy, alarm, or abuse (verbally) another person. Again, the Supreme Court addresses this subject in West Virginia Board of Education v. Barnette, 319 U.S. 624, 642, 63 S.Ct. 1178, 1187, 87 L.Ed. 1628 (1943). The Court held that, "No official, high or petty, can prescribe what shall be orthodox in politics, nationalism, religion, or other matters of opinion force citizens to confess by word or act their forth therein.

42.

### THIRD CAUSE OF ACTION

#### VIOLATION OF FREE EXERCISE CLAUSE

43.

Plaintiff incorporates by reference the allegations contained in paragraphs 1-41 as though fully set forth herein.

//

1 44.

2 Plaintiff DAVIS is entitled to the same constitutional rights as all other  
3 Americans to worship GOD in his own religion. This was not entirely possible when  
4 ninety (90) days and (90) meetings were put on plaintiff as a punishment. Plaintiff  
5 DAVIS is a Baptist and traditionally as a Baptist there is a day of rest and worship.

6 Plaintiff was unable to dedicate one day to worship during the week due to  
7 requirement of D.C.T.C. compelling him to participate everyday in NA/AA. Defendants  
8 cause and deprived plaintiff rights secured by the Constitution and laws of United  
9 States.

10 45.

11 This is a clear violation of Free Exercise Clause, refer to Elrod v. Burns,  
12 427 U.S. 347, 373 (1976), which stated, "The loss of First Amendment freedoms, for  
13 even a minimal period of time, unquestionably constitutes irreparable injury. The  
14 defendants have caused this injury here.

15 46.

16 It was held concerning Free Exercise that government must remain neutral in  
17 matters of religion does not foreclose it from ever taking religion into account. The  
18 State may "accommodate" the free exercise of religion by relieving people from gene-  
19 rally applicable rules that interfere with their religious callings. See, e.g. Corp.  
20 of Presiding Bishop of Church of Latter-day Saints v. Amos, 483 U.S. 327 (1987) See  
21 also Sherbert v. Verner (1963) 374 U.S. 398. Contrary to the [\*628] views of some,  
22 such accommodation does [\*\*2677] not necessarily signify an official endorsement of  
23 religious observance over disbelief.

24 By definition, secular rules of general application are drawn from the non-  
25 adherent's vantage and, consequently, fail to take such practices into account. Yet  
26 when enforcement of such rules cuts across religious sensibilities, as it often does,  
27 it puts those affected to the choice of taking sides between God and government. **This**  
28 **is the case at bar with DAVIS.** In such circumstances, accommodating religion reveals

nothing beyond a recognition that general rules can unnecessarily offend the religious conscience when they offend the conscience of secular society not at all. Cf. Welsh v. United States (1970) 398 U.S. 333, 340. See Note, The Free Exercise Boundaries of Permissible Accommodation Under the Establishment Clause, 99 Yale L.J. 1127, 1135-1136 (1990).

**WHEREFORE**, Plaintiff prays judgment against defendants as follows:

**RELIEF REQUESTED**

1. A declaratory judgment, pursuant to 28 USC §2201, that defendants violated plaintiff's civil and legal rights when they unlawfully forced him to attend NA/AA a recognized type of religion and to force plaintiff to miss his religious attendance, and the plaintiff Being in Drug Court illegally per PC §1210 - 1211.

2. An injunction preventing and restraining D.C.T.C. (non-profit org.) and S.C.P.D. as well as Administration and County Alcohol & Drug Program continuing to subject people to religious programs such as NA/AA without option of secular program.

3. That this Court convene a Federal Grand Jury to investigate possible criminal violations of 18 USC 241 and 242.

4. Damages against defendants as follows:

5. Punitive damages in amount to be determined by jury.

6. As to the First Cause of Action, violation of Establishment Clause, an award of \$500,000 to plaintiff.

7. As to the Second Cause of Action, denial of rights, an award of \$300,000 to plaintiff.

8. As to the Third Cause of Action, violation of Free Exercise, an award of \$500,000 to plaintiff.

9. For cost of suit.

10. Plaintiff requests trial by jury in all issues triable by jury.

11. A grand total of 1.3 million dollars due to the plaintiff .

1  
2 12. For any other relief that this Court finds true and proper.

3 13. That Court order release of Drug Court file to Scott Davis or plaintiff  
4 and Court can get a clear record between 8-25-05 and 11-06-06 meaning all information  
5 related to Court and counselor notes on progress of Davis throughout his participation,  
6 all Judge's notes to do with bi-monthly visits.

7  
8 Date: August 31st, 2007

  
Scott William Davis, In  
Propria Persona

Ex. "A"

Name Davis, Scott  
 Case SC 32799  
 Date 8.25.2005

## DRUG COURT ORDERS/CONDITIONS OF PROBATION

- ☒ L21 Defendant is accepted to participate in Drug Court Program
- ☒ G1 Imposition of judgment suspended.
- ☒ X1 On **CONDITIONAL SENTENCE** to the Court for eighteen (18) months.
- ☒ X23 Complete minimum 9-month Drug Treatment Program.
- ☒ X2 Be of good conduct and abide by all laws.
- ☒ X3 Abstain from the use of alcohol and/or drugs.
- ☒ X3A Do not be in places where alcohol is the primary item of sale.
- ☒ X24 Do not consume anything containing poppy seeds.
- ☒ X4 Do not possess any drugs or drug paraphernalia without a valid prescription.
- ☒ X6 Submit to random chemical tests at the direction of your drug counselor.
- ☒ X7 Complete a diagnostic evaluation as directed.
- ☒ X8 Complete all objectives of your Counseling Treatment Plan.
- ☒ X8A Submit to warrantless search & seizure of person, property, personal business, vehicle at any time of day
- ☒ X8B or night and residence any time of the day or reasonable hours of the night by any Probation or Law Enforcement Officer
- ☒ Y14 Or Program Representative
- ☒ X9 Make all counseling sessions, court appearances, Narcotics Anonymous meetings (or other self-help meetings) as directed.
- ☒ X10 Keep your counselor and the Court advised of your current address and phone number at all times.
- ☒ X11 Register as a "controlled substance offender" with either your local police department or Sheriff pursuant to section 11590 of the Health & Safety Code, and bring receipt to next court appearance.
- ☒ X13 Court waives the Drug Program Fee, finding the defendant does not have the ability to pay.
- ☒ X14 Court imposes \$100.00/\$200.00 State Restitution Fine per 1202.4 of the Penal Code. Court finds compelling and extraordinary reasons to waive fine as follows: Defendant ordered to pay weekly counseling fees for a 9-month Drug Treatment Program. Any court ordered payments shall be
- ☒ X16 directed to those counseling fees.
- ☒ X17
- ☒ X20 To serve \_\_\_\_\_ months county jail, execution of sentence stayed pending successful completion of probation.
- ☒ X21 Report immediately to:  
 DRUG COURT TREATMENT CENTER  
 2230 Professional Drive, C  
 Santa Rosa, CA
- ☒ X22 Test as directed at Orenda Center
- ☒ Y27 Defendant agrees to all terms and conditions of Probation

  
 Judge of the Superior Court

Defendant's Signature Scott Davis  
 Address \_\_\_\_\_  
 City \_\_\_\_\_ St \_\_\_\_\_ Zip \_\_\_\_\_

Ex 'B'

SUPERIOR COURT OF THE STATE OF CALIFORNIA  
COUNTY OF SONOMA

PEOPLE OF THE STATE OF CALIFORNIA,  
Plaintiff,

CASE NO. SCR 32799

vs.

DRUG COURT AGREEMENT

Scott Davis Defendant/

I agree to give up the following rights and to carry out the agreements listed below and as explained in the "Notice to Participants".

1. To enter the Drug Court Program, I understand I will plead guilty to a certain charge or charges. The Judge will put me on probation for eighteen (18) months and will impose a jail sentence. The Judge will then stay or delay my jail sentence so that I can successfully complete the treatment program.
2. I understand that as I plead guilty I will give up my right to a speedy jury trial or court trial. I will also give up my right to remain silent or to testify on my own behalf. I also give up my right to see, hear, and cross-examine the prosecution's witnesses or to call witnesses on my behalf.
3. I also understand that any time within **fourteen (14) days from today** I can withdraw from the Drug Court Program by telling the Judge that I don't want to participate in the Program. Likewise, the Judge may also terminate me from the program during the first fourteen (14) days. If either happens, my not guilty plea will be re-entered and my case will be transferred back to a criminal department.
4. I agree to complete a diagnostic evaluation in order to design my individual treatment program. I authorize the release of all treatment information to the Court and to Drug Court personnel. This information cannot be used by the District Attorney to prosecute me, but it can be used by the Court to see how well I am doing in the program.
5. I understand that this is a minimum nine (9) month *intensive drug treatment program*. It will include individual counseling, group counseling, urine testing, designated self-help meetings, and constant review by the Drug Court Judge. I agree to complete all objectives in my personal "counseling treatment plan."
6. I understand that I will have to appear in court on a regular basis and will be personally accountable for my progress in the Drug Court Program. No attorney will speak on my behalf. *I will speak for myself and speak directly to the Judge.*



7. I understand that any failure in the treatment program such as missing counseling sessions, missing urinalysis test(s), positive urinalysis test(s), or a new arrest will result in an immediate appearance in front of the Judge. The Judge will then have the option to sanction me for my behavior to include increased treatment and counseling, more court appearances, immediate jail, termination from the program, or other sanctions the Judge deems appropriate.
8. I agree to pay for my counseling as ordered by the Drug Court Judge. If I do not complete the program, I understand that I will not get any money back.
9. I also agree that the Court may extend my probation to give me additional time to complete the counseling program.
10. I agree to keep my counselor and the Judge advised of my current address and phone number at all times.
11. I understand that the Court will order random chemical testing to insure that I am not using alcohol or drugs. This testing is usually done at the Orenda Center, however the Court may, without notice to me, require testing at another location by an outside agency, i.e. treatment providers, the Probation Department or a law enforcement agency.
12. I also understand that if I successfully complete the Drug Court Program the Judge will allow me withdraw my guilty plea and my case will be dismissed, or the Judge will grant such other relief as allowed by law.

I have read my statement of rights and I have read the "Notice to Participants". I also have read the agreements I am making with the Court. I understand what I have read, I give up these rights and I enter into these agreements with the Court.

Scott Davis 8-25-05  
Defendant's Signature Date

[Signature] 8-25-05  
Attorney for Defendant Date

[Signature] 8-25-05  
Deputy District Attorney Date

[Signature] 8/25/05  
Judge Date

1 SUPERIOR COURT FOR THE COUNTY OF SONOMA

2 STATE OF CALIFORNIA

3 HON. ROBERT S. BOYD, PRESIDING

4  
5 December 19, 2006

6 The proceedings of the afore-mentioned matter  
7 came on regularly this day in the Superior Court of the  
8 County of Sonoma State of California, before Honorable  
9 ROBERT S. BOYD, Presiding.

10 THE PEOPLE OF THE STATE OF CALIFORNIA were  
11 represented by JIM SHINE, Deputy District Attorney for  
12 the Sonoma County District Attorney's Office.

13 The Defendant, SCOTT WILLIAM DAVIS was  
14 represented by JAMIE THISTLETHWAITE, Attorney at Law.

15  
16 CHRISTINE L. ARNESON, Certified Shorthand  
17 Reporter, was present and acting.

18 The following proceedings were had and taken,  
19 to wit:

20 THE COURT: Let's take the matter of  
21 Mr. Davis. This matter comes on for sentencing on the  
22 matter of Scott Davis. The court has read and reviewed  
23 the presentence report. The court has a long history  
24 with Mr. Davis in drug court, and the court would be  
25 prepared to accept a recommendation.

1 Counsel wish to be heard?

2 MS. THISTLETHWAITE: I do, Your Honor, in that  
3 the recommendation is the maximum aggravated term. I  
4 have had a chance to sit down and talk with Mr. Davis.  
5 Present in court is his mother, who asked for the  
6 opportunity to address the court briefly prior to  
7 sentencing.

8 Ms. Davis, could you please stand up and  
9 identify yourself for the record? Why don't move up to  
10 the bar. You are going to have to be stand right there  
11 and identify yourself.

12 MS DAVIS: I am Scott's mother, Alece Davis.  
13 I am here to say that over the last year and half, two  
14 years, Scott has come a long way. He has really made an  
15 improvement and tried very, very hard. The Scott that  
16 we have with us today is not the Scott that we had three  
17 or four years ago. He has really put a good effort into  
18 getting himself up, and he has really come forward a  
19 long way. I just -- I really want you to know we really  
20 feel he has made such an effort.

21 THE COURT: Thank you. All right.

22 MS. THISTLETHWAITE: Your Honor, I was with  
23 Mr. Davis at the initial sentencing in Department No. 1,  
24 I believe, in front of Judge Dale at that time. And the  
25 circumstances of the original offense was that Mr. Davis

1 was under the influence of alcohol, severely, reached  
2 over a counter grabbing some money out of a cash  
3 register while the video was running, and then was just  
4 stopped. It was the most unsophisticated crime --  
5 spontaneous in its nature, certainly due to the fact  
6 that at that point he was under the influence of  
7 alcohol.

8 We litigated the matter, and if indeed he  
9 would have done the three years, which would have been  
10 the maximum aggravated offense at the time, he would  
11 have been out in a year and a half, been on parole.  
12 What he ended up doing was, according to my records, 14  
13 months at Solidarity House. And I believe when  
14 everything was figured out, over 500 days of custody.  
15 So we have 14 months of treatment, 500 days of custody,  
16 plus and all the time he did in drug court.

17 After speaking with Mr. Davis, he told me that  
18 he was trying his best to be -- he started to have  
19 emotional problems, which he ended up in Oak Crest --  
20 how many times?

21 THE WITNESS: I went up there on night stay,  
22 and I went up there -- it is overnight one time, just  
23 checking in because I was having such problems.

24 MS. THISTLETHWAITE: Considering the  
25 circumstances, and what he has tried to do, I am asking

1 the court instead of the three years in state prison to  
2 consider a Johnson waiver and one year with probation to  
3 terminate from this date. I think that that recognizes  
4 the effort he has made and also acknowledges his parents  
5 have been supportive and seen a change in him. His  
6 mother here just told the court as well as the  
7 circumstances of the original offense, which were  
8 extremely, I would think, well-reflected in the charge,  
9 666; that is what he did. He got drunk, reached over,  
10 took some money on the video camera. So I am asking the  
11 court to consider one year with probation to terminate.

12 THE COURT: Mr. Shine?

13 MR. SHINE: What isn't being talked about is  
14 the recommendation is -- I think the recommendation  
15 comes to us after such a long time trying to work with  
16 Mr. Davis. And irrespective of what his mother said,  
17 maybe he changed in her eyes, but he wasn't changing as  
18 far as drug court goes. I have been doing drug court  
19 for 14 or 15 months, and he predated me. We spent a  
20 long time with him trying to do tons of stuff, and he  
21 just was recalcitrant or unable to comply. I think with  
22 what his record is that the three years is an  
23 appropriate sentence.

24 MS. THISTLETHWAITE: If I could respond. I do  
25 not believe that this is an aggravated case where the

1 three years would have been even appropriate at the time  
2 of sentencing. As I said, if he got that, he would have  
3 been long done. Mr. Davis has told me -- this is what  
4 he is telling me -- he completed all the paperwork and  
5 was three weeks shy of graduating when he finally kind  
6 of went over the edge. Now, I am hoping that is true.  
7 Mr. Davis is giving me that information. I don't know  
8 if it could be confirmed; but when Mr. Davis was having  
9 these problems, he was calling me, and I was telling him  
10 to hang in there, because I thought, of course, it would  
11 be best for him. He was emotionally unable to do it,  
12 but he did give it what I consider an effort because he  
13 was certainly in this program for a long time.

14 So I am still sticking with my original  
15 request for the court to consider a Johnson waiver with  
16 one year in the county jail, which would give him  
17 basically over two actual years in custody more than he  
18 would have done, probably close to three actual years in  
19 custody on this case at this point. I submit it.

20 THE COURT: Thank you. The Court has read and  
21 reviewed the presentence report and appreciates the  
22 comments the Court has heard. In going through the  
23 history, I see back in March of '04 when -- I didn't  
24 realize it was Judge Dale, but I will accept that,  
25 execution of sentence suspended.

1           Mr. Davis, while you have been -- since March  
2 '04, you have known that if you were not able to  
3 complete the program that is what you were going to be  
4 facing. I see you were sent to Solidarity House, and  
5 after that you picked up a new drug charge, 11550, came  
6 into our drug court program, and they there were five  
7 violations of the drug court policy. And then upon that  
8 fifth violation, your indication was you didn't want to  
9 do the program, didn't want to do drug court, not  
10 interested in any more programs.

11           So, unfortunately, it sounds like you have  
12 given up on yourself, which I find disturbing, because I  
13 think through the drug court process, I think you  
14 learned a lot. I hope it stays with you. But at this  
15 point, the information you gave probation, you are  
16 simply not interested in any program, so it comes to the  
17 court then with a suspended sentence.

18           So the Court -- I am going to go ahead and  
19 impose the suspended sentence. Life is not over. You  
20 are going to be getting out. You do have credits we  
21 will talk about in a minute. I hope you can use some of  
22 the tools you learned in drug court to your advantage  
23 when you get out of CDC, because for a while you were  
24 doing fine, and then you just couldn't stay with it.  
25 There are issues you need to deal with, emotional issues

1 I hope you get some help on.

2 At this time, probation is revoked. You're  
3 committed to the Department of Corrections,  
4 rehabilitation for the term of three years. You are  
5 ordered to pay restitution to the victim, Sonoma Joe's  
6 Sports Bar and Casino in the amount of \$311.85, pursuant  
7 to Section 1202.4 of the Penal Code, to be collected by  
8 the Department of Corrections. You are ordered to pay a  
9 restitution fine in the amount of \$600 to be paid in a  
10 manner to be determined by the Department of  
11 Corrections.

12 You are ordered to pay an additional  
13 restitution fine pursuant to Section 1202.45 of the  
14 Penal Code in the same amount as that imposed to the  
15 victim. This additional restitution fine shall be  
16 suspended unless your parole is revoked.

17 You have been convicted of a felony. You may  
18 not own, or have in your possession or under your  
19 custody or control any firearm or ammunition.

20 And as for credits, accepting the calculation  
21 by probation, you have 192 days for custody --

22 MS. THISTLETHWAITE: As of December 13, he had  
23 198 custody, 98 conduct credits, for a total of 296  
24 days.

25 THE COURT: Those will be your credits.



1 MS. THISTLETHWAITE: Mr. Davis was asking you  
2 to consider giving him credit for the time that he did  
3 in drug court under 2900.5.

4 MR. DAVIS: Yes.

5 THE COURT: That is an out-of-custody program,  
6 so I don't believe it would be appropriate for me to  
7 that.

8 You do have a right to appeal the sentence.  
9 If you wish to file an appeal, you may file a written  
10 notice of appeal with the clerk of this court within 60  
11 days of today. If you are unable to hire an attorney,  
12 the appellate court will appoint an attorney to  
13 represent you. If you do appeal, you have a right to a  
14 free transcript and necessary records of the court.  
15 Written notice of appeal must be timely filed within 60  
16 days of today.

17 Mr. Davis, you still have a life. You know,  
18 time goes by, and whatever issues you have, deal with  
19 them, take care of them. I don't want to think you have  
20 given up on yourself.

21 THE WITNESS: I think I gave it an effort,  
22 though, Your Honor. We are talking about, you know, not  
23 to make a felony light, it is one of the lightest  
24 felonies, petty theft with a prior, and I do 31 months  
25 rehabilitation -- seven more months than someone who

1 went to Delancy Street. I have some problems, I go to  
2 Oak Crest, and you say because I don't want to  
3 participate --

4 THE COURT: I am only concerned about your  
5 future. I really want you to get whatever help you  
6 need. It is out there. Apply for it, ask for it and  
7 get it when you have a chance. I don't want to see you  
8 back in our courts again. That will be the sentence.

9 (Proceedings concluded.)  
10  
11  
12  
13  
14  
15  
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25

REPORTER'S CERTIFICATE

COUNTY OF SONOMA )  
 ) ss.  
STATE OF CALIFORNIA )

I, CHRISTINE L. ARNESON, CSR #1690, a  
certified court reporter in and for the County of  
Sonoma, State of California, do hereby certify that the  
foregoing Pages 1 through and including 10 comprise a  
true and complete transcript of the proceedings reported  
by me on December 19, 2006, in the foregoing matter.

Dated this 16th day of January 2007.



Christine L. Arneson, CSR #1690

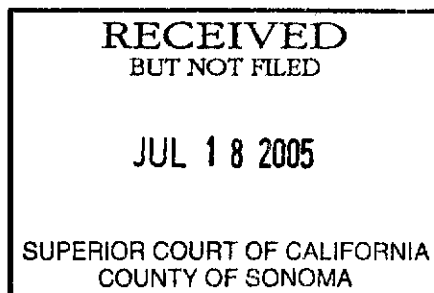
# MEMO

HEARING DATE: 08/11/05

FILING DATE: 08/08/05

DA File No. 457013

PD File No. 307770



DATE: July 15, 2005

TO: HONORABLE CERENA WONG, Judge of the Sonoma County Court

FROM: Gina DiGiacomo, Deputy Probation Officer

SUBJECT: TREATMENT UPDATE

RE: DAVIS, SCOTT WILLIAM Court Case No. SCR-32799 Probation File No. 77484

ATTORNEY: Ande Thomas, Deputy Public Defender

## CASE SUMMARY:

On July 08, 2005 the defendant was in Court regarding a violation of probation, based upon possession of drugs and being under the influence of drugs. The matter was continued until 08/11/2005 for sentencing. TASC has provided further information regarding treatment.

## TREATMENT STATUS:

The defendant was screened and accepted into TASC on 07/06/05. According to Jerry Knoakes, TASC case manager, the defendant "admits to having a drug problem and is ready to change his life. TASC is recommending that he attend the 30 day Residential program with 6 months of outpatient follow up. This will include further drug testing, involvement in NA/AA, be gainfully employed and make all of his appointments. It is my recommendation that he stay incarcerated until bed-space becomes available. It is my hope that the Court will grant Mr. Davis this opportunity to do something about his addiction."

## CREDIT FOR TIME SERVED:

02/07/03: Hold placed on defendant in Sacramento County.  
03/11/03: Warrant arrest  
12/19/03: Released on bail  
01/12/04: Defendant entered treatment at Solidarity House.

Ex. E

SCR-32799

SUPERIOR COURT OF CALIFORNIA, COUNTY OF SONOMA

Page 13

08/25/2005 DE 1 Courtroom Minutes of Department 15 (continued)

Totally abstain from use of alcohol/drugs

Stay out of places where alcoholic beverages are the primary item of sale

Do not consume anything containing poppy seeds

Not to possess any drugs or drug paraphernalia without valid prescription

Submit to random chemical tests at the direction of your drug counselor

To complete a diagnostic evaluation as directed

To complete all the objectives of your ^counseling treatment plan^.

Submit to warrantless search and seizure of person, property, personal business or vehicle at any time day or night;

Or Program representative.

Make all counseling sessions, court appearances, Narcotics

Anonymous meetings, or other self help meetings as directed

To keep your counselor and the court advised of your current address and phone number at all times

Court waives Drug Program Fee, finding that defendant does not have ability to pay

Court finds compelling and extraordinary reasons to waive fine as follows:

Defendant ordered to pay weekly counseling fees for 9-month drug treatment program

Any court ordered payments shall be directed to those counseling fees

Test at Orenda Center

Defendant agrees to all terms and conditions of Probation.

CONTINUED TO - 09/01/2005 at 2:00pm 15, FOR REVIEW

09/01/2005 DE 1

OR FEE TO APPLY

09/01/2005 DE 1 Courtroom Minutes of Department 15

HON: Robert S. Boyd DDA: PHILLIP J. ABRAMS CLK: MB

Defendant present

Remanded into custody

NO BAIL

CONTINUED TO - 09/08/2005 at 2:00pm 15, FOR REVIEW

09/06/2005 DE 1

AUTOMATED 8715 SUBSEQUENT ACTION ISSUED

09/08/2005 DE 1

OWN RECOGNIZANCE AGREEMENT TO APPEAR FILED